

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)

MUR 5211

Friends of Dave Eshleman and

)

Joe Rodriguez, as treasurer

)

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Friends of Dave Eshleman and Joe Rodriguez, as treasurer ("Respondents"), violated 2 U.S.C. § 434(a)(6)(A).

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Friends of Dave Eshleman is a political committee within the meaning of 2 U.S.C. § 431(4), and is the authorized principal campaign committee for David Eshleman's 1999 congressional campaign.

2. Joe Rodriguez is the treasurer of Friends of Dave Eshleman.

21-04-405-3356

3. The Federal Election Campaign Act of 1971, as amended ("the Act"), requires principal campaign committees of candidates for federal office to notify in writing either the Secretary of the Senate or the Commission, as appropriate, and the Secretary of State of the appropriate state, of each contribution totaling \$1,000 or more, received by any authorized committee of the candidate after the 20th day but more than 48 hours before any election.

2 U.S.C. § 434(a)(6)(A). The Act further requires notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate and office sought, the date of receipt, the amount of the contribution, and the identification of the contributor. *Id.* The notification of these contributions shall be in addition to all other reporting requirements.

2 U.S.C. § 434(a)(6)(B).

4. The Special General Election in the 42nd District of the State of California was held on September 21, 1999. Pursuant to the Act, candidate committees involved in this election were required to notify the Commission, in writing, of all contributions of \$1,000 or more received from September 2 through September 18, 1999, within 48 hours of their receipt.

5. Among the contributions that Respondents received between September 2, 1999, and September 18, 1999, were two contributions from the candidate of \$1,000 or more, totaling \$60,000, for which Respondents did not submit 48-Hour Notices. The first contribution was made on September 2, 1999, in the amount of \$20,000, and the second contribution was made on September 15, 1999, in the amount of \$40,000. The Committee did not submit 48-Hour Notices for these contributions.

6. Respondents contend that their failure to properly report these contributions within the time period specified was not knowing and willful. Respondents disclosed the candidate loans in the 1999 30-Day Post Special General Report. Respondents contend that they did not intentionally violate the Act, and that the agent of the treasurer who customarily filed these reports failed to file the 48-Hour Notices under the belief that personal loans from the candidate were not required to be reported on 48-Hour reports. Respondents acknowledge that the designated treasurer, and not the treasurer's agent, bears responsibility under the Act for timely filing all committee reports.

V. Respondents failed to report two campaign contributions of \$1,000 or more, totaling \$60,000, received after the 20th day, but more than 48 hours before the general election, within 48 hours of receipt of the contributions, in violation of 2 U.S.C. § 434(a)(6)(A).

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Six Thousand Two Hundred dollars (\$6,200), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.


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IX. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

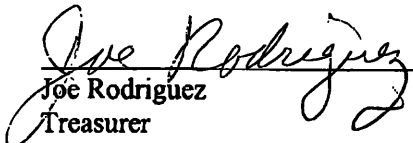
Lawrence H. Norton
General Counsel

BY:


Rhonda J. Vording
Acting Associate General Counsel

11/28/01
Date

FOR THE RESPONDENTS:


Joe Rodriguez
Treasurer

11-6-01
Date

21-04-405-3359